Appl. No.: 10/696,453
Amdt. Dated: October 5, 2005
Reply to Office Action of: June 14, 2005

REMARKS/ARGUMENTS

1. Restriction Requirement

A Restriction Requirement was entered in the application. The two groups of claims described in the Restriction Requirement are:

Group I: Claims 1-9 drawn to an apparatus for making a crystal pre-melt.

Group II: Claims 10-20 drawn to a method of making a crystal pre-melt.

During a telephone conversation between the Examiner and the undersigned attorney an election was made, without traverse, to prosecute the claims of Groups II, claims 10-20. **The election to prosecute claims 10-20 is hereby confirmed.** Claims 1-10 have been withdrawn from consideration by this paper. Applicants reserve the right the file the non-elected claims in a divisional application.

2. Non-Statutory Double Patenting Rejection under 35 U.S.C. §101

The Examiner has provisionally rejected claims 10, 12, 13, 15, 17, and 20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 – 5, and 11 of cop ending Application No. 10/636,125. Although the conflicting claims are not identical, they are not patentable distinct from each other because both applications teach a method of making a crystal or crystal preempt, comprising disposing crystal raw material in a hermetically –sealed chamber, having a reaction between a fluorinating agent and oxides at selected treatment temperatures and forming a melt out of the crystal raw material.

A double-patenting rejection under the judicially created doctrine can be overcome by the filing of a terminal disclaimer.

A terminal disclaimer disclaiming the term of any patent granted on the present application over the term of any patent granted on Application No. 10/636,125 provided that is enclosed with this paper.

Applicants respectively submit that in view of the Terminal Disclaimer submitted herewith, it is proper for the Examiner to withdraw the Non-Statutory Double Patenting Rejection under 35 U.S.C. §101.

In addition to the rejection of claims 10, 12, 13, 15, 17, and 20 as described above, claims 11, 14, 16 and 18-19 were objected to. The Office Action did not specifically mention the reason for the objection, but since these claims are dependent on the rejected claims Applicants understand the objection as being in view of their dependence on rejected claims. Applicants respectively submit that in view of the Terminal Disclaimer submitted herewith concerning the rejected claims, it is proper for the Examiner to withdraw the objection to claims 10, 12, 13, 15, 17, and 20.

3. Conclusion

Based upon the above remarks and the Terminal Disclaimer submitted herewith, Applicants believe the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicants respectfully request reconsideration of the pending claims 10-20 and a prompt Notice of Allowance thereon.

Applicants believe that no extension of time is necessary to make this Response timely. Should Applicants be in error, Applicants respectfully request the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to Walter M. Douglas at 607-974-2431.

5 October 2005
Date

Respectfully submitted,
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CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8

I hereby certify that this paper and any papers referred to herein are being transmitted by facsimile to the U.S. Patent and Trademark Office at 571-273-8300 on:

5 October 2005
Date

Walter M. Douglas — 5 October 2005
Date